IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1283 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/07/2004 in WP NO : 13435 OF 2004 on the file of the High Court.)

Between:

1 Sayyapuraju Sathyavathi, W/o. Chitti Venkat Raju,
R/o. Vedireswaram Village, Ravulapalem Mandal, E.G. Distict.
2 Sayyapuraju Kasi Viswantha Raju, S/o. Chitti Venkat Raju,
R/o. Vedireswaram Village, Ravulapalem Mandal, E.G. Distict.
3 Sayyapuraju Kall Kumari, W/o. Viswanatha Raju,
R/o. Vedireswaram Village, Ravulapalem Mandal, E.G. Distict.

..... APPELLANTS

AND

1 The Government of A.P. rep by its Secretary, Revenue Dept.,
Secretariat Buildings, Hyderabad.
2 The Chief Commissioner of Land Administration, Government of A.P.

Nampally Road, Hyderabad.
3 The District Collector, E.G. District, Kakinada.
4 The Mandal Revenue Officer, Ravulapalem Mandal, E.G. District.
5 M/s. Konaseema EPS Oakwell Power Ltd. Rep by its General

Manager (Projects), Ravulapalem, Ravulapalem Mandal, E.G.

District.

.....RESPONDENTS

Counsel for the Appellant: MR.G.KRISHNA MURTHY

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE
Counsel for the Respondent No.5: Mr.P.Veera Reddy

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Writ petitioners are the appellants and their writ petition has been dismissed by the impugned order. Learned single Judge while dismissing the writ petition and declining to interfere in exercise of writ jurisdiction, reserved liberty to the petitioners that in case they are felt aggrieved by the action of the respondents, their remedy is to approach the competent civil court.

Petitioners alleged in the writ petition that they are the residents of Vedireswaram village, Ravulapalem Mandal, East Godavari District and that their main source of livelihood is agriculture. They have got agricultural lands in an extent of Ac.12-13 cents covered by S.Nos.33 and 34 at Devarapalli village adjacent to the R&B road which is coming from Ravulapalem to Amalapuram. The said lands are also situated adjacent to the drainage channel and puntha road on western side. The said drainage channel and puntha road start from the petitioners' land at Muktheswaram channel and it goes to west and ultimately joins at Palivela drainage channel of Amalapuram main channel. The said drainage channel is the only source of discharge of the drainage water from the petitioners' land and also other neighbouring landowners consisting of more than 100 acres. The puntha road is the only road which is being used by all the ryots on either side of the puntha and it is being used for carrying of men, cattle, carts and tractors and other vehicles for the purpose of transporting the agricultural products from their fields since times immemorial.

Petitioners further alleged that respondent No.5-company had purchased 100 acres of land for the purpose of construction of Konaseema Power Project. The said lands are adjacent to R & B Road of Ravulapalem and Amalapuram and also adjacent to the Government land situated on western side on which drainage channel and Puntha Road are existing from times immemorial and by the

proceedings dated 12th July, 2004, decision was taken to alienate the entire extent o f Ac.4-51 cents except Ac.0-20 cents to the fifth respondent. This action was challenged on the ground that it was done without issuing notice or without affording opportunity to the petitioners and other ryots who are using the puntha road and drainage channel and that the gram panchayat is not competent to grant permission for the sale and is also not competent to grant any no objection. In nut-shell, the petitioners' claim is that since they are enjoying the puntha road as well as the drainage water facility, respondents have no right to alienate the same to respondent No.5 and the gram panchayat could not have granted the requisite no objection to the Government for alienating the land.

Learned single Judge observed that by the impugned proceedings Ac.0-20 cents classified as canal poramboke (water body) was directed to be deleted from the area sought to be alienated to the fifth respondent. Therefore, in case petitioners had any right, they were at liberty to approach the civil court and it was not a fit case for interference exercising jurisdiction under Article 226 of the Constitution of India.

Proceedings dated 21st July, 2004 would suggest that proposal for alienation of Government land to the extent of Ac.4-71 cents was under consideration in favour of the fifth respondent so that the respondent No.5 would have a compact block formed with the land already purchased by it. On receipt of information from the Revenue Divisional Officer, Amalapuram, inspection was carried out and demands of the local people and surrounding ryots were also taken into consideration. On spot inspection and on consideration of prayer of the local people, respondent No.5 through its letter agreed to the demands of the farmers to the following extent:

> "I) They will form drain along the eastern side border of the Puntha from main road to palivela drain as requested by Sri Sayyaparaju Kasi Viswanadha Raju @ Kasiraju.
>
> ii) They will allow Kasiraju and his family members to use the present puntha after alteration for taking out their agricultural produce for four days in a month on mutual consent basis.
>
> iii. That on the request of the Gram Panchayat their project will take up steps to donate funds for the development works in Devarapalli Gram Panchayat".

The proceedings further record that gram panchayat vide their resolution dated 18th March, 2003 had resolved that it had no objection for the proposed alienation of land for use of the power project. Accordingly, after excluding Ac.0-20 cents of land, permission was granted for alienation of Ac.4-51 cents of land.

Learned counsel for the appellants placed reliance upon the decisions of this court in GRAM PANCHAYAT, MANDAPAKA vs DISTRICT COLLECTOR, WEST GODAVARI DISTRICT and KATURI MAHALAXMAMMA vs SPECIAL COMMISSIONER OF LAND REVENUE. It was submitted that the proposed alienation is contrary to the letter and spirit of sub-Section (2) of Section 53 of the A.P. Panchayat Raj Act.

We have given due consideration to his submissions. There is no manner of doubt that land did vest in the village for the purpose of possession and management but Government never divested its rights over the land except to the extent of what is provided in Section 53 of the Panchayat Raj Act and opportunity to the Gram Panchayat as envisaged in sub-Section (2) is implicit in view of the resolution of the Gram Panchayat which had resolved that it has no objection to the proposed alienation and thus there could be no valid justification in challenge being made by persons like the petitioners who claimed that they are ryots and are directly affected. Petitioners' demands were duly considered and to some extent it was accepted by excluding Ac.0-20 cents of land and that the petitioner No.2 and his family members will be allowed by the fifth respondent to use the puntha land after alteration for taking out their agricultural produce for four days in a month on mutual consent basis.

In view of the above, in case petitioners have got any rights in and over the land alienated in favour of the fifth respondent, it would be for the petitioners to establish their right in Civil Court. They cannot be prevented to do so. The question in this case is about the right of the Government to alienate the land. Land absolutely vests in the State except for the purposes mentioned in Section 53 and in view of the resolution of the Gram Panchayat, the petitioners cannot question the said action of the government in alienating the land. We are not impressed with the submission made before us that the Government has no jurisdiction to alienate the land. Irrespective of the alienation, if the petitioners have any rights in and over the land, they, as mentioned above, are not prevented from taking out appropriate

proceedings in Civil Court.

Appeal dismissed.

DEVINDER GUPTA, CJ

27-8-2004

C.V.RAMULU, J

Tvr

To

1 The Government of A.P. rep by its Secretary, Revenue Dept., Secretariat Buildings, Hyderabad.
2 The Chief Commissioner of Land Administration, Government of A.P.

Nampally Road, Hyderabad.

3 The District Collector, E.G. District, Kakinada.
4 The Mandal Revenue Officer, Ravulapalem Mandal, E.G. District.

5 2 CCs to the Govt. Pleader for Revenue, High Court Buildings,

Hyderabad (OUT).

6 2 CD copies.